

MONTANA LEGISLATIVE HISTORY

Chapter 110 1995

Bill H 175 S _____

Original bill & history ☒ c

H. Committee on Judiciary

Hearing Date(s) 1/24 _____ c

1/24 _____ c

_____ c

_____ c

Date Out _____ c

S. Committee on Judiciary

Hearing Date(s) 2/28 _____ c

2/28 _____ c

_____ c

_____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

1/28	REFERRED TO JUDICIARY		
2/28	HEARING		
3/01	COMMITTEE REPORT—BILL CONCURRED		
3/04	2ND READING CONCURRED	43	0
3/06	3RD READING CONCURRED	49	0
RETURNED TO HOUSE			
3/07	SIGNED BY SPEAKER		
3/09	SIGNED BY PRESIDENT		
3/09	TRANSMITTED TO GOVERNOR		
3/13	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 109		
	EFFECTIVE DATE: 10/01/95		

HB 175 INTRODUCED BY HAGENER, ET AL.

PROVIDE THAT THE CHIEF JUSTICE, RATHER THAN THE GOVERNOR, MAY
ASSIGN A DISTRICT JUDGE TO HOLD COURT IN A DISTRICT OTHER
THAN THE JUDGE'S OWN DISTRICT

BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION

1/13	INTRODUCED		
1/13	FIRST READING		
1/13	REFERRED TO JUDICIARY		
1/24	HEARING		
1/25	COMMITTEE REPORT—BILL PASSED		
1/26	2ND READING PASSED	94	6
1/27	3RD READING PASSED	88	7
TRANSMITTED TO SENATE			
1/28	FIRST READING		
1/28	REFERRED TO JUDICIARY		
2/28	HEARING		
3/01	COMMITTEE REPORT—BILL CONCURRED		
3/04	2ND READING CONCURRED	43	0
3/06	3RD READING CONCURRED	49	0
RETURNED TO HOUSE			
3/07	SIGNED BY SPEAKER		
3/09	SIGNED BY PRESIDENT		
3/09	TRANSMITTED TO GOVERNOR		
3/10	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 110		
	EFFECTIVE DATE: 03/10/95		

HB 176 INTRODUCED BY HAGENER, ET AL.

REQUIRE ALL COURTS OF ORIGINAL JURISDICTION TO IMPOSE A USER
SURCHARGE IN CRIMINAL, CIVIL, AND PROBATE CASES

BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION

1/13	INTRODUCED		
1/13	FIRST READING		
1/13	REFERRED TO JUDICIARY		
1/14	FISCAL NOTE REQUESTED		
1/20	SPONSOR FISCAL NOTE RECEIVED		
1/21	FISCAL NOTE PRINTED		
1/24	HEARING		
2/04	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/06	TAKEN FROM 2ND READING AND REREFERRED TO TAXATION		
2/15	HEARING		
2/15	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/17	2ND READING PASSED	63	37
2/18	3RD READING PASSED	64	34

House BILL NO. 175

INTRODUCED BY

Antonette R. Hagen & Derogian

BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE CHIEF JUSTICE, RATHER THAN THE GOVERNOR, MAY ASSIGN A DISTRICT JUDGE TO HOLD COURT IN A DISTRICT OTHER THAN THE JUDGE'S OWN DISTRICT; ELIMINATING THE REQUIREMENT FOR A REQUEST BY AN INTERESTED PERSON; AMENDING SECTIONS 3-5-111 AND 3-5-112, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-5-111, MCA, is amended to read:

"3-5-111. **District courts presided over by judges of other districts.** A judge of the district court of any judicial district may hold the district court in any county of another district ~~than his own~~ at the request of the judge ~~thereof~~ of the other district or as otherwise provided by law. ~~Upon the request of the governor, it is his duty to do so.~~ A district judge shall hold the district court in a county of another district if so requested by the chief justice. ~~In either case the~~ The judge holding the court in the other district has the same power either in court or chambers as a judge thereof as within the judge's own district."

Section 2. Section 3-5-112, MCA, is amended to read:

"3-5-112. ~~Order from governor~~ **Authority of chief justice.** (1) if The chief justice may by written order assign a district judge to hold court in a county of another district if:

(a) for any cause a district court in another district is not or cannot be held in any county by the a judge or judges thereof or by a district judge requested by such judge or judges to hold such court of the other district or acting for the other district; or if

(b) the business of the court in any county in the other district is not or cannot be dispatched with reasonable promptness, the governor may, upon application of any interested person, by an order in writing, require some district judge to hold court in said county for such time as may be specified in the order.

(2) A district judge assigned to another district pursuant to subsection (1) shall hold court in other district for the time specified in the order."

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

-END-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BOB CLARK, on January 24, 1995, at
8:00 AM.

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Shiell Anderson, Vice Chairman (Majority) (R)
Rep. Diana E. Wyatt, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Ellen Bergman (R)
Rep. William E. Boharski (R)
Rep. Bill Carey (D)
Rep. Aubyn A. Curtiss (R)
Rep. Duane Grimes (R)
Rep. Joan Hurdle (D)
Rep. Deb Kottel (D)
Rep. Linda McCulloch (D)
Rep. Daniel W. McGee (R)
Rep. Brad Molnar (R)
Rep. Debbie Shea (D)
Rep. Liz Smith (R)
Rep. Loren L. Soft (R)
Rep. Bill Tash (R)
Rep. Cliff Trexler (R)

Members Excused: NONE

Members Absent: NONE

Staff Present: John MacMaster, Legislative Council
Joanne Gunderson, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 174, HB 175, HB 176, HB 179
Executive Action: HB 46 DO PASS AS AMENDED
HB 161 DO PASS AS AMENDED
HB 174 DO PASS
HB 175 DO PASS
HB 93 POSTPONE ACTION

Closing by Sponsor:

REP. FELAND made his closing remarks.

HEARING ON HB 174Opening Statement by Sponsor:

REP. TONI HAGENER, HD 90, introduced HB 174 at the request of the Montana Association of District Clerks. It is intended to clear up some matters for the district clerks and to provide a more accurate recording of dissolutions of marriages and annulments. Lines 17-23 on page 2 are the main changes in the bill.

Proponents' Testimony:

Nancy Sweeney, Clerk of District Court, Lewis and Clark County, presented written testimony in favor of HB 174. EXHIBIT 1

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. LOREN SOFT asked what happens as a result of the lack of information they are requesting through the implementation of this bill.

Ms. Sweeney said this allows people who are researching for genealogical reasons to determine where the dissolution occurred. There is no impact in terms of legal separations.

Closing by Sponsor:

REP. HAGENER closed.

HEARING ON HB 175Opening Statement by Sponsor:

REP. TONI HAGENER, HD 90, introduced HB 175 at the request of the Judicial Unification and Finance Committee intended to clean up old language and bring it into consistency with the Constitution. Current law allows the governor to assign on a temporary basis district court judges to other districts to manage case loads. This is inconsistent with the principles of the independence of the judiciary. The Montana Constitution vests the Supreme Court with general supervisory authority over all other Montana courts. This bill is designed to correct this error in statute.

{Tape: 1; Side: A; Approx. Counter: 32.5}

Proponents' Testimony:

Jim Rice, Attorney, reiterated that this bill is to revise an old law and that it is a law which could play a helpful role in the administration of the judiciary, but it is unconstitutional as presently written. This will bring flexibility to the judicial system and eliminate the practice of creating new judgeships. He said that we can't have the head of the executive branch of government administering the affairs of the judicial branch.

Pat Chenovick, Administrator, Montana Supreme Court, reported that the Chief Justice, while not looking for additional work, believed that as a matter of constitutional authority it rests with the Chief Justice to assign or reassign district judges in case they are needed in other district.

John Larson, 4th Judicial District Judge, rose in support of this bill. He advised the committee that district judges do travel around the state and they do voluntarily go to other districts to assist in those cases where there is conflict of interest.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. BOHARSKI requested clarification of the language on the bottom of page 1 and what sorts of provisions there are as to when this assignment can and cannot be done.

Mr. Rice thought that there was no particular language that sets forth any standard or mandate for this practice. The judges are a close-knit group who work together well and know among themselves when there is a problem because of an illness or an excessive number of filings and they work together on that. He could not imagine the Chief Justice overriding the desires or work of a local district court judge unless it was really necessary.

REP. BOHARSKI wondered if there might be an occasion where the Chief Justice might want another judge sitting in on a case and he didn't know if the local judge currently has the authority to refuse should this occur.

Judge Larson believed when a case is assigned to a district judge, that district judge has the sole authority to call in anyone else to accept or not accept the case. This bill would come into effect where the district judge is incapacitated or actually requests the Chief Justice to assist and to assign the judge to that district.

REP. BOHARSKI clarified that it is at the request of the sitting district court judge.

Judge Larson said that was how he would see it operating. A third party would intervene if the judge was incapacitated.

REP. DANIEL MC GEE asked if there were any political implications in this bill at all.

Mr. Rice answered, "No." The only possible political implication, if it could be termed political, that he could foresee would be if the judge for some reason was not performing the duties of office very well.

REP. MC GEE asked if it was Mr. Rice's opinion that this is needed to agree with the Constitution.

Mr. Rice indicated that it did.

Closing by Sponsor:

REP. HAGENER closed.

HEARING ON HB 176

Opening Statement by Sponsor:

REP. TONI HAGENER, HD 90, introduced HB 176 at the request of the Judicial Unification and Finance Commission. This commission was created by the 1993 legislative session in response to concerns raised by the State Bar of Montana and the Association of Counties that Montana's courts were experiencing funding problems. She discussed the proposals of the commission which included a recommendation of dealing with court funding short falls and the inability to update and modernize court equipment by imposing a user surcharge in criminal, civil, and probate cases. She emphasized that this would be a user fee and would not affect the general fund. She also testified to the need for the modernization of court equipment and the limited funds to manage a statewide automation project. **EXHIBIT 2**

Proponents' Testimony:

James Rice, Attorney, said that this bill is to complete the process of modernizing the district court system and cited examples of the need. The user fee would be paid by those who use the court system at \$5 per case.

Pat Chenovick, Court Administrator, Montana Supreme Court, distributed a chart showing the courts and the status of their automation systems. **EXHIBIT 3** He demonstrated visually and by historical examples the need for automation in those courts where it has not yet taken place. The surcharge was also detailed in his testimony. He reported that REP. GRADY said the subcommittee on appropriations as a whole supports the \$5 surcharge bill in lieu of taking general funds to support automation.

Discussion: REP. TASH requested that the record show that he would abstain from votes on these three bills because he has a case pending in the appeals court.

Vote: The motion carried 18 ayes and REP. TASH abstaining.

EXECUTIVE ACTION ON HB 175

Motion/Vote: REP. WYATT MOVED HB 175 DO PASS. Motion carried 18 ayes with REP. TASH abstaining.

EXECUTIVE ACTION ON HB 93

REP. SOFT commented on a number of items which needed to be addressed with HB 93.

REP. HURDLE recalled from her notes that there were several problems which had come up during the hearing on HB 93.

Motion: REP. HURDLE MOVED HB 93 DO NOT PASS.

Discussion: REP. BRAD MOLNAR shared the concerns but felt there were other concerns which would arise without the bill. He felt if there was no sex offender treatment program the recidivism rate would increase to 100%. He continued to address specific items in the bill which needed modification.

CHAIRMAN CLARK reviewed the Department of Corrections and Human Services (DCHS) proposed amendments to facilitate the committee's decision. He "walked" the committee through each proposed amendment.

REP. MOLNAR asked if the words, "mildly mentally retarded" and "borderline intelligence" were quantifiably defined.

REP. SOFT said they were.

CHAIRMAN CLARK also said they were referenced.

REP. CHRIS AHNER asked if it was currently acceptable to use the term, "mentally retarded," rather than mentally handicapped.

CHAIRMAN CLARK reported that Mr. Day of DCHS had said that term is still used.

REP. HURDLE felt using both terms was redundant and the term, "borderline intelligence," would be the more acceptable.

CHAIRMAN CLARK said he had no objection but that Mr. Day wanted the whole spectrum covered.

HOUSE OF REPRESENTATIVES

Judiciary

ROLL CALL

DATE 1/24/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Clark, Chairman	✓		
Rep. Shiell Anderson, Vice Chair, Majority	✓		
Rep. Diana Wyatt, Vice Chairman, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Boharski	✓		
Rep. Bill Carey	✓		
Rep. Aubyn Curtiss	✓		
Rep. Duane Grimes	✓		
Rep. Joan Hurdle	✓		
Rep. Deb Kottel	✓		
Rep. Linda McCulloch	✓		
Rep. Daniel McGee	✓		
Rep. Brad Molnar	✓ late		
Rep. Debbie Shea	✓		
Rep. Liz Smith	✓ late		
Rep. Loren Soft	✓		
Rep. Bill Tash	✓		
Rep. Cliff Trexler	✓		



HOUSE STANDING COMMITTEE REPORT

January 24, 1995

Page 1 of 1

Mr. Speaker: We, the committee on **Judiciary** report that **House Bill 175** (first reading copy -- white) do pass.

Signed: Bob Clark
Bob Clark, Chair

mm 1/24

Committee Vote:
Yes 18, No 0, ABSTAIN 1

201325SC.Hbk

EXHIBIT 2
DATE 1/27/95
HB 176

JUDICIAL UNIFICATION AND FINANCE COMMISSION
SUMMARY OF PROPOSALS

The Judicial Unification and Finance Commission (JUFC), was created by the 1993 Legislature to study the potential unification and future financing of Montana's courts. The committee is proposing seven Legislative bills and a number of Recommendations.

JUFC LEGISLATIVE PROPOSALS

LC0067 District Court Funding -- Establishes a state cost-sharing program for certain district court expenses in civil proceedings similar to the criminal reimbursement program, except that the state would pay up to 50% of the costs. Eligible expenses under this program are:

(1) Representation of indigent persons who are (a) charged with a misdemeanor in justice court, (b) subject to civil commitment proceedings, (c) youths charged under the Montana Youth Court Act, (d) subject to child dependent and neglected proceedings;

(2) Juvenile probation; and

(3) Court reporters salaries in civil cases.

To pay for the civil reimbursement program the legislation imposes a mandatory 0.1% light vehicle tax. Funding for the 50/50 cost share would be statutorily appropriated for the above stated civil expenses. Counties will continue to have the option to levy a light vehicle tax up to 0.4% and the bill makes

to 1880. However, counties have no specific budgets for maintaining such records. The objective of LC64 is to provide the funds necessary for the clerks of district courts to effectively maintain, store, and preserve such records.

LC0063 Assignment of District Judges to Other Districts - *

- Provides that the Chief Justice, rather than the Governor, has the authority to temporarily assign a district judge to hold court in a district other than the judge's own district. Eliminates the requirement that such assignment is pursuant to a request by an interested person or by written order.

RATIONALE: Present §§ 3-5-111 and 3-5-112 M.C.A. provide that the Governor has the authority to assign a district judge to hold district court in another district if by reason of caseload or other circumstances the elected judge of the district is unable to do so. These statutes violate the constitutional separation of powers. Under the amended statutes, the Chief Justice will assume these functions and the requirement that an interested person must first request the reassignment is eliminated.

LC0062 Seven Member Supreme Court -- Makes permanent the provision setting the number of associate justices on the Montana Supreme Court at six.

RATIONALE: This provision would retain the present seven member court which otherwise will be reduced to a five member court pursuant to a sunset provision effective January 6, 1997. Since 1979, when the Legislature first authorized a seven member court, the number of Supreme Court cases has been increasing and between

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

JUDICIARY

COMMITTEE

DATE 1-24-95

BILL NO. HB 175 SPONSOR(S) Rep. Hagener

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppo
PATRICK CHENOVICK	MONTANA SUPREME COURT	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993

wp:visbcom.man

CS-14

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **BRUCE D. CRIPPEN, CHAIRMAN**, on February 28, 1995, at 10:00 A.M.

ROLL CALL

Members Present:

Sen. Bruce D. Crippen, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Larry L. Baer (R)
Sen. Sharon Estrada (R)
Sen. Lorents Grosfield (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Mike Halligan (D)
Sen. Linda J. Nelson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Valencia Lane, Legislative Council
Judy Feland, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 135, HB 208, HB 173, HB 174, HB 175
Executive Action: HB 174, HB 175, HB 173, HB 208. HB 135

HEARING ON HB 174

Opening Statement by Sponsor:

REPRESENTATIVE A.R. "Toni" HAGENER, House District 90, Havre and Western Hill County, sponsored HB 174. The bill was requested by the **Montana Association of District Clerks**. She told the committee it was a housekeeping bill that would allow the clerks better reporting. The point of the bill, she said, is noted on Line 17-23, Page 2. Montana statute currently states that the Clerk of Court shall give notice of the dissolution or legal separation. Since legal separation does not terminate a legal marriage and there is no reference to invalid marriages or annulments (which are a termination of marital relationships)

some confusion exists. Amending the statute to read that the Clerk of Court shall give notice of the entry of a decree of dissolution or a decree of invalid marriage, where the marriage was recorded would clear up this matter and allow for more accurate recording. This very simple correction is what is proposed in the bill.

Proponents' Testimony:

Bob Gilbert, representing the Montana Association of Clerks of District Court, said that their organization wanted to rise in support of HB 174.

Nancy Sweeney, Clerk of District Court for Lewis and Clark County, appeared on behalf of the Montana Association of Clerks of District Court, to speak in favor of HB 174. Problems with Section 40-4-108 MCA, were identified at the Montana Association of Clerks of District Court Conventions in 1994. She presented and read from written testimony. (EXHIBIT 1)

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

CHAIRMAN BRUCE CRIPPEN asked REPRESENTATIVE HAGENER questioned about "invalid" marriages and asked if it would be a divorce or a separation?

Nancy Sweeney said that an invalid marriage would be an annulment.

Closing by Sponsor:

REPRESENTATIVE HAGENER closed HB 174 without further comment.

HEARING ON HB 175

Opening Statement by Sponsor:

REPRESENTATIVE A.R. "Toni" HAGENER, House District 90, Havre and Western Hill County, opened HB 175. The bill was brought in at the request of the Judicial Unification and Finance Committee. The committee was formed by the last legislative session to examine the court system and make recommendations. The bill is one of those recommendations. Current statutory language states that the Governor may temporarily assign district court judges to other districts to manage caseloads. This language is inconsistent with the principles of independence of the judiciary. The Montana Constitution vests the Supreme Court with the general supervisory authority over all other Montana courts. This bill seeks to correct this error in statute. As the title of the bill states, it provides that the Chief Justice of the

Supreme Court, rather than the Governor, may assign a district judge to hold court in a district other than the judges' own district. The Chief Justice already has the authority to appoint a retired judge to perform this duty. The Governor typically consults the Chief Justice regarding such an appointment anyway. This is a more direct and efficient method to provide for the expeditious handling of district court cases in the event that a judge is incapacitated or unable to handle the district's caseload. It eliminates the requirement that such assignment is pursuant to the request by an interested person or by written order as it was felt that the Chief Justice should not have to wait for such a request by an interested person before making a temporary assignment to handle the judge's caseloads.

Proponents' Testimony:

Patrick A. Chenovick, Administrator for the Supreme Court, explained that when the Judicial Unification and Funding Committee looked at this particular area, they consulted with the Governor and the Executive Branch of government to see if changing this particular section of the statute would result in a problem with separation of powers or the ability of the Executive Branch to operate efficiently. The Governor said he had no problems with the change. He had also talked to the Chief Justice and he wished to pass on that he's not looking for additional duties or work, but would gladly accept the assignment if they so chose.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

CHAIRMAN CRIPPEN asked **Pat Chenovick** how often this situation would happen. **Mr. Chenovick** stated that in the eight years of his employment, he was not aware of a single instance. When asked further by the chairman why they needed the bill, he replied that the committee felt that the bill would clarify the separation and allow for the appointment of a judge from a multi-judge district to go and take care of the caseload in an area. That way the process would not be slowed down more than it already is. **CHAIRMAN CRIPPEN** asked if they had ever had an instance where they felt a retired judge would not be desirable and had a sitting judge do it.? **Mr. Chenovick** stated that it could happen, based on the fact that many of the retired judges are up in age. At the present time, they had 8 judges they could call in.

SENATOR REINY JABS asked if the retired judges are chosen first, and then the district judges or can they choose any way they want? **Mr. Chenovick** replied that the usual method for calling in a judge is to ask a judge from a surrounding area to take the case. If the judge does not have a spot open, then the judge

requests the Chief Justice to call a retired judge to sit on the case.

Closing by Sponsor:

REPRESENTATIVE HAGENER closed on HB 175 without further comment.

HEARING ON HB 173

Opening Statement by Sponsor:

REPRESENTATIVE DAVID EWER, representing downtown Helena, House District 53, sponsored HB 173, "an act allowing the Department of Justice to provide certain gambling information to gambling regulatory agencies of jurisdictions outside the state." Nearly the entire bill is on Line 24-27, he said. This bill, if passed, would enable the State of Montana to provide information for those who are in the gambling business to other qualified entities under the jurisdiction of other states. Currently the state does not have that authority and while we are able to get information from other states, those states are unable to get information from Montana. Consequently, they were not getting reciprocity from other states. He said he had been asked in the House hearing on the bill about the process of disclosure. He said it was his understanding that the same procedures that are used to protect exchange and information with the criminal justice system, would be in place.

Proponents' Testimony:

Beth Baker, Department of Justice, said the bill was brought at their request. She read from written testimony. (EXHIBIT 2).

Dennis Casey, representing the Gaming Industry Association of Montana, spoke in full support of HB 173. Their association has been critical of the Gambling Control Division in the length of time it takes to process applications. This is a tool which would make the process more effective, he said.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

SENATOR LARRY BAER asked REPRESENTATIVE EWER about the disclosure of requested information because he noted there was nothing in the bill that would require a reciprocal disclosure from a party requesting like information. He wondered if he would be adverse to adding something to the bill that would give such disclosure conditioned upon reciprocal disclosure or an equal dignity. Beth Baker answered the question. She said they did not think the bill needs to require those stipulations because they are presently allowed under Montana law to receive this information.

Department of Justice the 70 per cent of the cases with no assets?

Mr. Woodgerd said that the Department of Revenue would continue to file claims. It would only be when that process required an attorney to go to court that the Department of Justice would become involved. The DOR would continue to review and take care of those cases.

Closing by Sponsor:

REPRESENTATIVE COBB said they were trying to have a pro-active participation in their bankruptcy cases. Right now it is mostly reactive, he said. He stated that other states were like Montana previously, wherein all the little agencies did their own thing, then hiring outside counsel when they needed it. When they started doing the work in a centralized unit, they started to realize more money than ever before. As in the Orange County case, he said, someone has to prepare the work for the outside counsel still. It would be much better to have someone who knows bankruptcy. The bill is line-itemed, **REPRESENTATIVE COBB** said, which means if the money is granted in House Bill 2, it cannot be spent for anything else, or move it anywhere else in their budget. It would also terminate in two years. He urged the committee to agree with a pro-active stance, and give it two years to prove it can make a lot more money than they are making now. If it doesn't work, even two attorneys would be hard to justify, he said.

EXECUTIVE ACTION ON HB 174

Motion/Vote: SENATOR MIKE HALLIGAN MOVED THAT HB 174 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY on an oral vote.

EXECUTIVE ACTION ON HB 175

Motion/Vote: SENATOR HALLIGAN MOVED THAT HB 175 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY on an oral vote.

EXECUTIVE ACTION ON HB 173

Motion: SENATOR SHARON ESTRADA MOVED THAT HB 173 BE CONCURRED IN.

Discussion: SENATOR BAER said he was concerned about a reciprocal condition of the bill, but he had been assured by **Beth Baker** that it does exist already somehow in the process, although he pointed out the bill did not contain the language. He said he would rely on her integrity to assure that there would be reciprocity of this information with those involved.

Vote: The MOTION CARRIED UNANIMOUSLY on an oral vote.

DATE _____

2-28-95

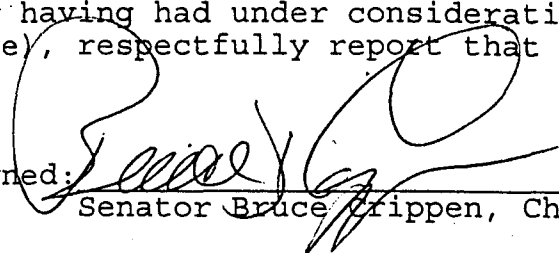
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SENATE STANDING COMMITTEE REPORT

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February 28, 1995

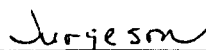
MR. PRESIDENT:

We, your committee on Judiciary having had under consideration HB 175 (third reading copy -- blue), respectfully report that HB 175 be concurred in.

Signed: 
Senator Bruce Crippen, Chair



Amd. Coord.
Sec. of Senate


Senator Carrying Bill

471250SC.SPV

HOUSE BILL NO. 175

INTRODUCED BY HAGENER, BERGMAN

BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE CHIEF JUSTICE, RATHER THAN THE GOVERNOR, MAY ASSIGN A DISTRICT JUDGE TO HOLD COURT IN A DISTRICT OTHER THAN THE JUDGE'S OWN DISTRICT; ELIMINATING THE REQUIREMENT FOR A REQUEST BY AN INTERESTED PERSON; AMENDING SECTIONS 3-5-111 AND 3-5-112, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-5-111, MCA, is amended to read:

"3-5-111. District courts presided over by judges of other districts. A judge of the district court of any judicial district may hold the district court in any county of another district ~~than his own~~ at the request of the judge ~~thereof~~ of the other district or as otherwise provided by law. ~~Upon the request of the governor, it is his duty to do so.~~ A district judge shall hold the district court in a county of another district if so requested by the chief justice. ~~In either case the~~ The judge holding the court in the other district has the same power ~~either in court or chambers as a judge thereof~~ as within the judge's own district."

Section 2. Section 3-5-112, MCA, is amended to read:

"3-5-112. ~~Order from governor~~ Authority of chief justice. (1) ~~If~~ The chief justice may by written order assign a district judge to hold court in a county of another district if:

(a) for any cause a district court in another district is not or cannot be held in any county by the a judge or judges thereof or by a district judge requested by such judge or judges to hold such court of the other district or acting for the other district; or if

(b) the business of the court in any county in the other district is not or cannot be dispatched with reasonable promptness, the governor may, upon application of any interested person, by an order in writing, require some district judge to hold court in said county for such time as may be specified in the order.

(2) A district judge assigned to another district pursuant to subsection (1) shall hold court in the other district for the time specified in the order."

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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